IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Original Jurisdiction

Dated: Nainital the 4th of June, 2002

Criminal Misc. Bail Application Number 518 of 2002

Order on the Bail Application

CRIMINAL SIDE

(1) Hafeez son of Sri Allan and (2) Akbar alias Raja son of Sri Mohd. Akhtar, resident of Khatadi, P.S. Ramnagar, District Nainital

.....Applicant(s)

Versus

State of Uttaranchal. .....Opposite Party

Arising out of- Case crime No. 877 of 2001,
Under sections 147, 148, 149, 302 of I.P.C.
P.S. Ramnagar, District Nainital

By the court

Hon'ble Irshad Hussain, J.

Heard the learned counsel for the applicants and the learned A.G.A. Sri D.K. Sharma and Smt. Pushpa Joshi, appearing on behalf of the complainant.

According to the prosecution version, applicants are two of the six assailants of the victim Zahid and they have wielded firearms in assaulting the said victim.

It was submitted that the victim had criminal history and since he was having a number of enemies, he might have been murdered by any of his enemies on getting an opportunity. It will be hypothetical to say that any other enemy had committed the offence. There are sixteen firearm injuries and considering the number of assailants, it is apparent, it is apparent that so much injuries could have been sustained by the victim at the hands of large number of the assailments.

It was also argued that there is delay in lodging the F.I.R., lodged at 7:45 P.M. The occurrence had taken place at about 5:45 P.M. and there is averment in the F.I.R. that the victim was first of all taken to the hospital and thereafter the matter was reported to the police station and in this way there was sufficient reason for delay in reporting the matter to the police station.

I have also considered the argument that the F.I.R. was probably ante-timed. I find no force in it also and considering the specific role assigned to the applicants, it is not a fit case for bail.

Bail application is rejected.

Irshad Hussain, J.

04.06.2002./B/